

CLAUDIO RAMIREZ

IBLA 74-21

Decided December 28, 1973

Appeal from decision of Area Manager denying grazing lease application.

Affirmed.

Grazing Leases: Generally--Grazing Leases:  
Applications

An application for a grazing lease is properly rejected where the Area Manager has determined that cattle grazing in the area requested would compete with wildlife for the limited available forage and has therefore designated that the area be used for wildlife only.

Grazing Leases: Generally--Grazing Leases:  
Applications

A decision of an Area Manager rejecting an application for a grazing lease will be allowed to stand in the absence of a showing that the decision is arbitrary or capricious because it is not supported on any rational basis.

APPEARANCES: Claudio Ramirez, pro se.

OPINION BY MR. STUEBING

Claudio Ramirez has appealed from the decision of the Area Manager, Folsom District, California, issued May 15, 1973, denying a grazing lease application filed under section 15 of the Taylor Grazing Act of June 28, 1934, 48 Stat. 1275, as amended, 43 U.S.C. § 315m (1970).

Appellant's application concerns approximately 1,720 acres of public land which is presently not under lease. He has leased 560 acres from a Mr. Meyers, which he designated as the private lands upon which he bases his preference right. Appellant seeks to graze 150 cattle for 6 months a year on private and public lands.

A field report compiled by the Bureau recommended that the application be denied for the following quoted reasons:

SUMMARY

1. No water on lands applied for; therefore, must haul water if applicant is to use cattle! (sic)
2. Soil very shallow, conversion would result in further loss of soil, and grazing could damage what soil profile exists.
3. Entire area would have to be fenced to prevent movement of livestock onto adjacent private lands.
4. Grazing will reduce the life of existing fire breaks.
5. Conversion from brush to grass could only be partially successful and the potential gains do not merit the expense required to obtain these gains.

The decision rejecting the application noted that the field report stated that the lands were unsuitable for grazing. It also pointed out that the lands have significant value for wildlife, and are within the Santa Lucia Deer Herd Range. The Manager cited 43 CFR 4121.2-1(a), which states:

The Authorized Officer will determine the availability of public land for grazing leases and the amount of forage available for use by livestock in conjunction with considerations of forage reservations for watershed protection, wildlife, and other multiple uses.

He also cited 43 CFR 4122.2, which provides:

When necessary for the proper use or orderly administration of a lease area, the Authorized Officer may designate certain areas for use exclusively by a certain kind or class of livestock or wildlife. (Emphasis added.)

Based on this authority, the area manager ruled:

Because the lands applied for only generate 41 (cattle) AUM's, livestock would compete directly with wildlife for forage; thus livestock grazing should be eliminated from the area to protect the wildlife. In addition, the area can not be properly used by livestock because of the

lack of water and inadequate fencing. Therefore the area is designated for use by wildlife only and Mr. Ramirez's grazing application is denied.

In his reasons for appeal appellant states that there are two wells on the property he leased to provide water for the cattle. He also suggested that he could haul water to the cattle on the public lands. He reasons that this water would also benefit wildlife. To overcome the objection that cattle might drift onto private land, he said that he would fence the area.

Management of the federal range is entrusted to the Bureau of Land Management. Determination of the range to be used is within the discretion of the Department. See R. B. Hackler, IGD 274 (1942). A decision made by the Bureau will stand unless it is shown that such decision is arbitrary or capricious because it is not supported on any rational basis. United States v. Charles Maher, 5 IBLA 209, 79 I.D. 109 (1972). The burden is upon the appellant to show by substantial evidence that the decision is improper or that he has not been dealt with fairly. See E. L. Cord, 64 I.D. 232 (1957); see also Lynn L. Moedl, 10 IBLA 106 (1973); Thomas W. Dixon, 1 IBLA 199 (1970). We do not find that appellant has met this burden. We recognize that appellant has asserted that he is willing to overcome the problems of lack of water and drifting of livestock indicated by the Bureau. The Manager's decision, however, rests on a broader basis and comports well with the need of wildlife in the area. He has considered the forage available and has determined that cattle grazing in this area would compete with livestock for the limited available forage, and for this reason he has designated the area for use by wildlife only. We find that this and the other reasons advanced support the decision and therefore find it proper. See John Ringheim, 10 IBLA 270 (1973); cf. Vern A. Venable, 9 IBLA 294 (1973).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Edward W. Stuebing, Member

We concur:

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Anne Poindexter Lewis, Member

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Newton Frishberg, Chairman

